

## REMARKS

Applicant respectfully requests reconsideration of the subject application as amended. In response to the Office Action mailed 12/17/03, Applicant is filing this amendment. Please amend claims 22 and 36. Accordingly, claims 21-42 are still pending.

In the Office Action mailed 12/17/03, the Examiner has objected to claims 22 and 36 for informalities. Applicant has amended claims 22 and 36 pursuant to the Examiner's suggestion. Accordingly, Applicant requests the Examiner to withdraw the objections as to claims 22 and 36.

In the Office Action, the Examiner rejected claims 21-34 and 42 under 35 U.S.C. § 102(a) as being anticipated by Weiss et al., ISSCC 2002, ("Weiss"). Furthermore, the Examiner rejected claims 35-41 under 35 U.S.C. § 103(a) as being unpatentable over Weiss in view of Schmidt, U.S. Patent No. 5,838,179 ("Schmidt"). Applicant respectfully traverses these rejections and requests reconsideration based on Applicant's declaration submitted under 37 C.F.R. § 1.131.

Applicant submits that this application is a continuation application of application number 10/127,103, filed April 22, 2002. The same Weiss reference was cited in that parent case in rejecting the claims of the parent application. Brian J. Campbell submitted a declaration under 37 C.F.R. § 1.131 to antedate Weiss. Accordingly, a copy of the Campbell declaration is being submitted herein to also antedate Weiss in response to the rejection based on Weiss. Applicant requests the Examiner to enter the declaration for this continuation case as well.

With the submission of the Campbell declaration under 37 C.F.R. § 1.131, Applicant submits that the rejections based on Weiss should be withdrawn. Accordingly, Applicant requests the Examiner to withdraw the rejections based on 35 U.S.C. § 102(a) 35 U.S.C. § 103(a).

The Examiner also rejected claims 29, 30, 33, 34, 40 and 41 under 35 U.S.C. § 112, second paragraph, citing the indefiniteness in the use of the word "about." Applicant submits the following argument. The same argument was submitted in the

parent case (AN 10/127,103) in responding to the same rejection based on the word "about."

Applicant notes that the MPEP specifically treats the term "about" (see MPEP 2173.05(b)(A)). This section of the MPEP cites case law which has generally found the term "about" to be definite, while finding the phrase "at least about" to be indefinite where there is close prior art and there was nothing in the prosecution history, specification, or the prior art to provide any indication as to what range of specific activity is covered by the term "about". Applicant notes that the phrase "at least about" is not used in this case and, especially given the 37 C.F.R. § 1.131 declaration submitted herewith, there is not close prior art to these claims. Additionally, the case law supports the use of the term "about" to avoid a strict numerical boundary to the specified parameter, without leading to indefiniteness. For example, the courts have found that "like the term 'about,' the term 'substantially' is a descriptive term commonly used in patent claims to 'avoid a strict numerical boundary to the specified parameter.'" Pall Corp. v. Micron Seps., 66 F.3d 1211, 1217, 36 USPQ2d 1225, 1229 (Fed. Cir. 1995).

Furthermore, one of ordinary skill in the art would know that, even in cases in which a nominal design has been created to size the logic gate for the recited 1/4 phase or 2 gate delays, the actual delays may deviate from the nominal design. Deviations are introduced in various manufactured circuits due to manufacturing variations, as well as variations in operating conditions (e.g. temperature, power supply voltage, ambient noise, clock skew and jitter, etc.). Any of these variations, and combinations thereof, may make the delays deviate from the nominal design in a given manufactured circuit.

For the above-stated reasons, Applicant submits that the term "about" as used in the claims meet the requirements of 35 U.S.C. § 112, second paragraph. Accordingly, Applicant respectfully requests the Examiner to withdraw the rejection based on 35 U.S.C. § 112, second paragraph.

Accordingly, Applicant respectfully requests for the withdrawal of all objections and rejections and solicits for the allowance of claims 21-42, as amended.

If there are any fee shortages related to this response, please charge such fee shortages to Deposit Account No. 50-2126.

Respectfully submitted,

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CERTIFICATE OF MAILING

37 C.F.R 1.8

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